

**In the Drawings:**

Please amend Figure 1 to correct the lead line for the particular compartment "112" located on the right side of the Figure, as shown in red in the attached marked-up copy thereof.

**REMARKS****A. The Present Amendment**

The Drawings have been amended, Figure 1, to correct the lead line for the item numbered “112” on the right side of the tray lower portion, since the original lead line for that particular number “112” did not extend to a compartment for a tool or accessory but instead to the recess defining second lower corner 114. The Specification has been amended to correct typographical errors in paragraphs [0025] and [0026]. The Specification has also been amended to refer in the Background of the Invention (paragraph [0004]) to prior art reference U. S. Patent No. 5,311,990, which discloses a plurality of compartments for various particular tools and accessories. Amendments are also made to paragraph [0012] to observe that the tray disclosed in Figure 1 is a one-piece, integral article because of the hinge 173, and to paragraphs [0006], [0013] and [0018] to describe in greater particularity the compartments 112 and the indentations 162, and their relationship. Support for these amendments is found in the application as originally filed, and specifically in the Specification at Paragraphs [0005] and [0018], in Claims 3 and 15, and in Figures 1 and 2 all as originally filed.. Claims 1 to 15 have been canceled, and new claims 16 to 22 have been entered.

**B. Inventorship**

The undersigned has reviewed the discrepancy in the identity of the sole inventor (Michael Polidoro) named with respect to the present Nonprovisional application and the sole inventor (Jon-Paul Rogers) named with respect to the Provisional application from which the present Nonprovisional claims priority. After reviewing the matter with relevant employees of the Assignee of the present application and discussing it with the then-patent attorney of the present

application (Mr. Joseph Maenner), and after discussion with inventor Michael Spolidoro of the present application and who is an employee of a vendor to the Assignee, the following explanation is hereby provided:

The Assignee hereof, Medical Components, Inc., requested the vendor, Alga Plastics, to provide a releasably closeable tray for medical articles that prevented migration of the articles during shipping and handling and provided a prior art, commercially used "lidless" tray (actually with a TYVEK® adhesive substrate cover) as a basis for the new tray design. During the development of the tray, employees of the Assignee were in communication with Jon-Paul Rogers from time to time on the project. When the Assignee decided to seek patent protection on the tray developed by the vendor, the vendor was asked to send an invention disclosure to the Assignee, the then-patent attorney was in communication with Mr. Rogers, and the disclosure was prepared and signed by Jon-Paul Rogers who submitted the disclosure to Assignee. The subject disclosure, having been signed by Jon-Paul Rogers as the inventor, was the basis of the Provisional application and Jon-Paul Rogers was named on the Transmittal Form as the inventor when the Provisional application was filed on April 3, 2003.

Almost a year later, when the patent attorney for the Assignee was preparing to file the Nonprovisional application on the subject invention and sent the application and Declaration documents to the attention of Jon-Paul Rogers at the vendor, the patent attorney was told that another employee of the vendor, Michael Spolidoro was actually the inventor. He was also told (in March, 2004) that Jon-Paul Rogers was no longer employed at Alga Plastics. The Nonprovisional application was then filed naming Michael Spolidoro as the inventor, and Mr. Spolidoro duly signed the Declaration which was submitted with the filing of the Nonprovisional application.

The undersigned has confirmed with Mr. Spolidoro the above account, and that Mr. Spolidoro was the actual inventor. Jon-Paul Rogers was given the assignment to provide detailed

drawings of the tray. Mr. Spolidoro had given sufficient details of the invention to Mr. Jon-Paul Rogers to enable him to complete the assignment. The undersigned has learned that Jon-Paul Rogers is not currently employed by the vendor, and was not and is not an employee of the Assignee; the undersigned has not conferred with Mr. Rogers about this matter.

### **C. The Rejection**

Claims 1 to 5 and 9 stand rejected under Section 102(b) as being anticipated by Yates, Jr. et al, (U. S. Patent No. 5,156,267). Claims 1 to 6 and 9 to 15 stand rejected under Section 103(a) as being unpatentable over Marconi (U. S. Patent No. 5,954,203) in view of Roberts (U. S. Patent No. 4,681,223). Claims 7 and 8 stand rejected under Section 103(a) as being unpatentable over Marconi in view of Roberts and further in view of Vigue et al (U. S. Patent No. 5,036,980). All of the rejections are deemed moot in view of the cancellation of claims 1 to 15.

Reference Yates et al discloses a tray for disposing of a medical syringe, with a base 10 that has a single large syringe-receiving compartment 50,100,150 within a shallow depression 40, the compartment having portions 50,100,150 whereby the compartment is adapted to the particular configuration of a syringe and sufficiently large to accommodate a range of sizes. Base 10 also has indentations 27,30,35 for receiving therein protuberances 150,155,160 that lock the cover 15 to the base 10. The cover has a wall 165 that fits within shallow depression 40 surrounding and sealing the compartment.

Regarding reference Marconi, this reference discloses a clam shell packaging container with a base 12 and a hinged cover 14 that engage in a sealing snap fit, where the base has an array of like upwardly extending bubbles 57. The cover has an array of downwardly extending bubbles 59, and the bubbles 59. The container is a shipping container for a (single) article (see Fig. 4) and the bubble array protects the article without the need for protective inserts or packaging material. The incidental spaces between the bubbles are not in any reasonable sense able to be considered

article-receiving compartments and are not adapted to receive thereinto respective various particular articles.

Reference Roberts et al is cited by the Examiner to disclose tabs 16 and 18 to augment closure of the clamshell package, and tabs 16,18 are seen in Fig. 5 as being able to be manipulated to be overlapped when the package is closed. The reference provides a single compartment for a plurality of knives or like blades. Reference Vigue et al discloses obliquely angled tab ends to facilitate closure and to enable opening of a cover and base of a container having a single compartment.

However, reference Kalinski (U. S. Patent No. 5,311,990) discloses a container having a plurality of article-receiving compartments in a bottom tray 80, a separate (or hingably attached) cover 25 lockable onto the tray, and an optional intermediate tray 55 also having a plurality of article-receiving compartments. The cover 25 has a pair of downwardly foldable flaps 32 along major sides each with a pair of female tabs 35 that are lockable to male tabs 105 on the tray 80, facilitating opening and relocking of the container. The reference does not provide for frictional engagement of depending walls of the cover with uprising walls of the bottom tray to facilitate locking and assist sealing. The bottom tray 80 is said to have "optional cavities 82 molded therein configured to hold various objects such as medical devices" (Column 3, lines 21 to 23); and optional intermediate tray 55 has a plurality of "optional cavities 62 configured to hold objects such as medical devices" (Column 3, lines 16 to 18). Cover 25 "may have cavities 29 molded into top 27 which are configured to various shapes, e.g., medical devices" (Column 3, lines 7 to 9).

Reference Kalinski does not expressly address configuring the indentations or cavities in the cover to particular compartments in the bottom tray or even in the intermediate tray to maintain any article, tool or accessory within its particular compartment, to overcome the problem of "migration" of the articles out of their particular compartments during shipping and handling. The cavities 29 of cover 25 are not associated with cavities 82 in bottom tray 80 and are not received

into portions of those cavities. While the left-most cavity 29 in cover 25 may seem associated with a large left-most cavity 62 in intermediate tray 55, it is not expressed to be for maintaining a particular article therein; the other remaining cavities 29 in cover 25 are not seemingly directly associated with particular cavities 62 in intermediate tray 55 but instead seem configured to surround portions of articles that protrude upwardly from and out of respective cavities 62 in intermediate tray 55 while traversing other portions of articles. In any event, for the cavities 29 to cooperate in any way with article-containing cavities, or the articles therein, of the container, the intermediate tray is required to be present. However, the reference expresses that the intermediate tray is optional and directs its major focus on the locking system of the cover to the bottom tray.

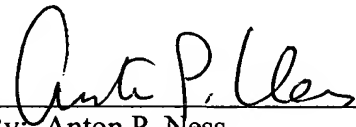
### CONCLUSION

Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims. If there are any other fees due in connection with the filing of this response, please do not hesitate to contact the undersigned.

Respectfully Submitted,

**Michael SPOLIDORO**

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Date

  
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